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OFFICE OF PETITIONS

In re Application of	:
FRIEDE et al.	:
Application No. 09/819,464	: DECISION GRANTING PETITION
Filed: march 28, 2001	: UNDER 37 CFR 1.55(c)
Attorney Docket No. B45070-1	:

This is a decision on the petition styled as filed under 37 CFR 1.78(a)(3) and 35 USC 120, filed January 13, 2004, which is properly treated as a petition under 35 USC 119(a)-(d) and 37 CFR 1.55(c), for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign UK Application No. 9513107.4, filed June 28, 1995.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(I), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on March 28, 2001, which is after November 29, 2000 and claims benefit under 35 U.S.C. § 120 of U.S. application No. 08/945,450 which, as the national stage under 35 USC 371 of PCT/EP96/01464 has a filing date of April 1, 1996, which is within 12 months of June 28, 1995 (the filing date of the foreign application to which benefit is now being claimed). On January 13, 2004, an ADS as provided by 37 CFR 1.76 was received which identifies the foreign application for which priority is claimed by application number, country and filing date, and likewise deletes the prior reliance on UK 96910019.7. The required petition fee of \$ 1330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

A filing receipt accompanies this decision on petition. The receipt of the certified copy of the foreign priority document is acknowledged.

This application is being brought to the attention of Technology Center AU 1648 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-1820..

A handwritten signature in cursive script that reads "Brian Hearn".

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt